

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**LUIS ANDINO,**

**Plaintiff,**

**v.**

**9:06-CV-509  
(FJS/DEP)**

**ELIOT SPITZER, New York State Attorney  
General; and GLENN S. GOORD, Commissioner  
of New York State Department of Corrections,**

**Defendants.**

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**APPEARANCES**

**LUIS ANDINO  
05-B-1233**  
Wende Correctional Facility  
P.O. Box 1233  
Alden, New York 14004  
Plaintiff *pro se*

**SCULLIN, Senior Judge**

**ORDER**

Currently before the Court is Plaintiff Luis Andino's amended complaint, *see* Dkt. No. 9, which he submitted in compliance with this Court's October 20, 2006 Memorandum-Decision and Order, *see* Dkt. No. 8.

In its previous Memorandum-Decision and Order, the Court advised Plaintiff that his original complaint failed to satisfy the basic pleading requirements of the Federal Rules of Civil Procedure because "it d[id] not contain a caption, d[id] not identify any defendants, and d[id] not set forth a short and plain statement of Plaintiff's claims." *See id.* at 4.

Plaintiff's amended complaint names numerous new Defendants and asserts allegations of

wrongdoing against them.<sup>1</sup> Plaintiff claims that Defendants retaliated against him for filing grievances, assaulted him on several occasions, and denied him due process in several prison disciplinary proceedings. *See* Dkt. No. 9. Since Plaintiff's amended complaint substantially cures the defects in Plaintiff's original complaint, the Court accepts it for filing.

Plaintiff has included over 130 pages of "exhibits" with his amended complaint. Plaintiff has not, however, properly identified or referred to these documents in his amended complaint and, therefore, the documents are not proper exhibits. Thus, the Court strikes the documents labeled "exhibit" and directs the Clerk of the Court to return them to Plaintiff.<sup>2</sup>

Accordingly, based upon the foregoing, the Court hereby

**ORDERS** that "Eliot Spitzer" and "Glenn S. Goord" are dismissed as Defendants in this action; and the Court further

**ORDERS** that the Clerk of the Court shall revise the docket to add "Mr. Healey," "Ms. E. Simmons," "D. Haddad," "C.O. Depue," "Sgt. Startup," "Sgt. Lucas," "Nurse Vesley," "C.O. Farrow," "C.O. Rodriguez," "C.O. True," "R. Wenlin," "Capt. Leghorn," "Lt. Simmons," "Sgt. Squires," and "Sgt. Miraldi" as Defendants in this action; and the Court further

**ORDERS** that the Clerk of the Court shall issue summonses and forward them, along with copies of the amended complaint, to the United States Marshal for service upon Defendants,

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<sup>1</sup> The Court notes that Plaintiff does not name "Eliot Spitzer" and "Glenn S. Goord," the two individuals that he named in his original complaint, as Defendants in his amended complaint. Therefore, the Court dismisses these two individuals as Defendants in this action.

<sup>2</sup> Plaintiff may, of course, seek to use these documents to support his claims in further proceedings in this action.

together with a copy of this Order.<sup>3</sup> The Clerk of the Court shall also forward a copy of the summons and amended complaint by mail to the Office of the New York State Attorney General, together with a copy of this Order; and the Court further

**ORDERS** that Defendants or their counsel shall file a formal response to Plaintiff's amended complaint as provided for in Rule 12 of the Federal Rules of Civil Procedure after service of process on Defendants; and the Court further

**ORDERS** that the parties to this action shall file all pleadings, motions and other documents relating to this action with the Clerk of the United States District Court, Northern District of New York, James Hanley Federal Building and Courthouse, 7th Floor, 100 South Clinton Street, Syracuse, New York 13261-7367. **A party must accompany any paper that it sends to the Court or to the Clerk of the Court with a certificate showing that the party has mailed a true and correct copy of the same to all opposing parties or their counsel.** The **Clerk of the Court will return, without processing, any document that the Court or the Clerk of the Court receives which does not include a proper certificate of service.** Plaintiff must comply with any requests of the Clerk's Office for any documents that are necessary to maintain this action. All parties must comply with this District's Local Rule 7.1 in filing motions, which must be returnable before the assigned Magistrate Judge with proper notice as the Rules require. **Plaintiff is also required to notify the Clerk's Office and all parties or their**

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<sup>3</sup> The Court previously granted Plaintiff leave to proceed with this action *in forma pauperis*. See Dkt. No. 8.

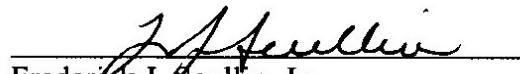
**counsel of any change in his address promptly; his failure to do so will result in the dismissal of this action.** The Court will decide all motions on submitted papers without oral argument unless the Court orders otherwise; and the Court further

**ORDERS** that the Clerk of the Court shall **strike** all documents labeled "exhibit" and return those documents to Plaintiff by regular mail; and the Court further

**ORDERS** that the Clerk of the Court shall serve a copy of this Order on Plaintiff by regular mail.

**IT IS SO ORDERED.**

Dated: December 18, 2006  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Senior United States District Court Judge